



**Billing Code: 4333–15**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS–R3–ES–2016–N085]**

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**U.S. Fish and Wildlife Service Enhancement of Survival Permit; Draft Mitchell’s Satyr Safe Harbor Agreement**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Receipt of application; request for comment.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), have received an application from the East Lansing Field Office Project Leader for an Enhancement of Survival Permit (permit) under the Endangered Species Act of 1973, as amended (ESA). The application includes a draft Safe Harbor Agreement to facilitate reintroduction and recovery of the Federally endangered Mitchell’s satyr butterfly on non-Federal land in Michigan and Indiana. We have made a preliminary determination that the Safe Harbor Agreement and permit application are eligible for a categorical exclusion under the National Environmental Policy Act of 1969 (NEPA). The basis for this determination is contained in a low-effect screening form, which is available for public review. We are accepting comments on the permit application and draft Safe Harbor Agreement.

**DATES:** To ensure consideration, please send your written comments on or before **[INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** *Document Availability:* The draft Safe Harbor Agreement, permit application, and low-effect screening form are available on the Internet at <http://www.fws.gov/midwest/eastlansing/>. Alternatively, these documents are also available for public inspection during normal business hours at the U.S. Fish and Wildlife Service, East Lansing Field Office, 2651 Coolidge Rd, Ste. 101, East Lansing, Michigan 48823.

*Submitting Comments:* Send written comments via U.S. mail to the U.S. Fish and Wildlife Service, Division of Ecological Services, 5600 American Blvd. West, Suite 990, Bloomington, MN 55437-1458; by facsimile to 612-713-5292; or by electronic mail to [permitsr3es@fws.gov](mailto:permitsr3es@fws.gov).

**FOR FURTHER INFORMATION CONTACT:** Barbara Hosler, East Lansing Field Office (see **ADDRESSES**); by telephone (517-351-6326) or [barbara\\_hosler@fws.gov](mailto:barbara_hosler@fws.gov). If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service at 800-877-8339.

## **SUPPLEMENTARY INFORMATION:**

### **Background Information**

Under a Safe Harbor Agreement, participating landowners voluntarily undertake conservation activities on their property to benefit species listed under the ESA (16 U.S.C. 1531 *et seq.*). The Safe Harbor Agreement and associated permit authorize participating landowners to incidentally take Federally listed species that may result from implementation of conservation activities beneficial to the species. The Safe Harbor Agreement also provides participating landowners assurances that no further land, water, or resource-use restrictions, or additional commitments of land, water, or finances, would be imposed beyond those agreed to in the Safe Harbor Agreement, including the option to return their land to the baseline condition established

at the time of the Safe Harbor Agreement. Application requirements and issuance criteria for enhancement of survival permits through Safe Harbor Agreements are found in Service regulations at 50 CFR 17.22 and 17.32.

### **Mitchell's Satyr Butterfly Draft Safe Harbor Agreement**

We have developed the Draft Safe Harbor Agreement to incentivize certain non-Federal landowners in Michigan and Indiana to volunteer their land for conservation activities beneficial to the Mitchell's satyr butterfly. Under the proposed Safe Harbor Agreement, we would issue a permit to the East Lansing Field Office Project Leader, who would then convey the permits incidental take authorization and assurances to willing landowners through Certificates of Inclusion, for the purpose of facilitating recovery of the Mitchell's satyr butterfly. Consistent with the Safe Harbor Policy (June 17, 1999, 64 FR 32717) and section 7 of the ESA, we would also provide neighboring landowners with incidental take authorization through the section 7 biological opinion, and assurances to those neighboring landowners who participate under the Safe Harbor Agreement.

To enroll in the Safe Harbor Agreement, an eligible landowner would voluntarily work with the Project Leader at the East Lansing Field Office to develop a Mitchell's satyr butterfly reintroduction plan for their property. Each reintroduction plan would identify a conservation zone, consisting mainly of suitable fen habitat for the Mitchell's satyr butterfly, and where habitat management activities would occur. Each reintroduction plan would have a term of 10 to 20 years within the duration of the proposed Safe Harbor Agreement, which is 30 years.

### **Species Information**

The Mitchell's satyr butterfly population has been in serious decline for years. The species was once found in 30 locations across Michigan, Indiana, and Ohio, with several disjunct

populations in New Jersey and possibly Maryland. Currently, Mitchell's satyr butterflies occur at 10 sites in Michigan and 1 site in Indiana. Since the species was listed in 1991, additional populations have been discovered in Virginia, Alabama, and Mississippi; however, genetic studies are inconclusive on the taxonomic relationships of these southern populations to the Michigan and Indiana populations (Hamm 2012). The Service's Recovery Plan for the Mitchell's satyr butterfly calls for the establishment of 25 geographically distinct viable populations, including specific actions to facilitate propagation and reintroduction activities across its historic range.

### **Next Steps**

We will evaluate the permit application, associated documents, and comments we receive to determine whether the permit application meets the requirements of the ESA, NEPA, and their implementing regulations. If we determine that all requirements are met, we will sign the proposed Safe Harbor Agreement and issue a permit under section 10(a)(1)(A) of the ESA to the East Lansing Field Office Project Leader. We will not make our final decision on the permit application until after the end of the public comment period, and we will fully consider all comments we receive during the comment period.

### **Public Availability of Comments**

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that the entire comment, including your personal identifying information, may be made available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Authority**

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22 and 17.32), and NEPA (42 U.S.C. 4371 *et seq.*) and its implementing regulations (40 CFR 1506.6; 43 CFR part 46).

**Dated: May 6, 2016**

**Lynn M. Lewis**

**Assistant Regional Director,**

**Ecological Services,**

**Midwest Region**

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